

EXHIBIT A

FREEDOM COURT REPORTING

Page 1	Page 3
1 UNITED STATES DISTRICT COURT 2 MIDDLE DISTRICT OF ALABAMA 3 SOUTHERN DIVISION 4 5 CASE NO. 1:06-CV-00034-MEF 6 KAREN LURIE, 7 8 Plaintiff(s), 9 v. 10 GLOBE LIFE and ACCIDENT INSURANCE 11 COMPANY, et al., 12 Defendant(s). 13 14 DEPOSITION TESTIMONY OF: 15 WILLIAM MATTHEWS 16 17 Commissioner: 18 Renny D. McNaughton 19 December 21, 2006 20 Ozark, Alabama 21 22 23	1 the time of trial or at the time said 2 deposition is offered in evidence, or prior 3 thereto. 4 In accordance with Rule 5(d) of the 5 Alabama Rules of Civil Procedure, as 6 amended, effective May 15, 1988, I Renny D. 7 McNaughton, am hereby delivering to Robert 8 Poundstone the original transcript of the 9 oral testimony taken the 21st day of 10 December, 2006, along with exhibits. 11 Please be advised that this is the 12 same and not retained by the Court Reporter, 13 nor filed with the Court.
Page 2	Page 4
1 S T I P U L A T I O N 2 IT IS STIPULATED AND AGREED by and 3 between the parties through their respective 4 counsel that the deposition of William 5 Matthews, may be taken before Renny D. 6 McNaughton, Court Reporter and Notary 7 Public, State at Large, at the offices of 8 William Matthews, Ozark, Alabama, on the 9 21st day of December, 2006, commencing at 10 approximately 10:00 a.m. 11 IT IS FURTHER STIPULATED AND AGREED 12 that the signature to and the reading of the 13 deposition by the witness is waived, the 14 deposition to have the same force and effect 15 as if full compliance had been had with all 16 laws and rules of Court relating to the 17 taking of depositions. 18 IT IS FURTHER STIPULATED AND AGREED 19 that it shall not be necessary for any 20 objections to be made by counsel to any 21 questions, except as to form or leading 22 question and that counsel for the parties 23 may make objections and assign grounds at	1 I N D E X 2 EXAMINATION BY: PAGE NO. 3 Mr. Poundstone 6 4 5 E X H I B I T S 6 Defendant's 7 No. 1...Notice of Deposition 9 8 No. 2...Subpoena of Records 9 9 No. 3...1/02/04 Letter 42 10 No. 4...1/26/04 Letter 44 11 No. 5...2/03/04 Letter 46 12 No. 6...3/02/04 Letter 49 13 No. 7...4/26/04 Letter 50 14 No. 8...5/18/04 Letter 37 15 No. 9...Faxed Policy 58 16 No. 10...Affidavit 66 17 No. 11...Phone Records 11 18 No. 12 A..Phone Records 9 19 No. 12 B..10/17/06 Letter 70 20 21 22 23

1 (Pages 1 to 4)

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FREEDOM COURT REPORTING

<p style="text-align: center;">Page 5</p> <p>1 APPEARANCES 2 3 FOR THE DEFENDANT (S): 4 Robert E. Poundstone, IV 5 Bradley Arant Rose & White LLP 6 Alabama Center for Commerce, 401 Adams 7 Avenue, Suite 780 8 Montgomery, Alabama 36104 9 334-956-7700 10 11 FOR THE PLAINTIFF (S): 12 Christopher Sanspree 13 Beasley, Allen, Crow, Methvin, Portis & 14 Miles, P.C. 15 218 Commerce Street 16 Montgomery, AL 36104 17 800-898-2034 18 19 20 21 22 23</p>	<p style="text-align: center;">Page 7</p> <p>1 A Will, yeah. 2 Q And what is your profession? 3 A I'm an attorney and a judge, 4 also. 5 Q And is that -- tell me where 6 you're a judge? 7 A Midland City, Clayhatchee, 8 Newton, and Dothan. 9 Q Okay. 10 A I was here at Ozark 14 years 11 before I moved to Dothan. 12 Q Okay. What kind of judge are 13 you? 14 A Municipal judge, part-time stuff. 15 Q And I noticed that you've 16 withdrawn as representing Ms. Lurie in this 17 case, correct? 18 A Yeah. 19 Q Okay. 20 A Because I'm a witness. 21 Q Okay. And do you -- 22 A It's unethical for me to be a 23 witness and be a party in this lawsuit.</p>
<p style="text-align: center;">Page 6</p> <p>1 I, Renny D. McNaughton, a Court 2 Reporter of Greenville, Alabama, and a 3 Notary Public for the State of Alabama at 4 Large, acting as Commissioner, certify that 5 on this date, pursuant to the Alabama Rules 6 of Civil Procedure, and the foregoing 7 stipulation of counsel, there came before me 8 at the offices of William Matthews, Ozark, 9 Alabama, commencing at approximately 10:00 10 a.m. on the 21st day of December, 2006, 11 William Matthews, witness in the above 12 cause, for oral examination, whereupon the 13 following proceedings were had: 14 15 WILLIAM MATTHEWS, 16 being first duly sworn, was examined and 17 testified as follows: 18 EXAMINATION 19 BY MR. POUNDSTONE 20 Q Would you please state your full 21 name, for the record? 22 A William Bush Matthews, Jr. 23 Q Do you go by Will?</p>	<p style="text-align: center;">Page 8</p> <p>1 Q Right. 2 A Or be an attorney in this 3 lawsuit, I think. 4 Q And, I assume, by doing that, you 5 expect to testify at trial? 6 A Yes, sir. If I'm called as a 7 witness, yeah. 8 Q Now, obviously, this deposition 9 today is unusual because you are an attorney 10 and you did represent Ms. Lurie. And I 11 understand that there may be instances today 12 where you want to assert the attorney/client 13 privilege. And, certainly, I'm not going to 14 force you or try to make you divulge stuff 15 that is covered by the attorney/client 16 privilege. I will say, just so we get it on 17 record, our position will be at trial that 18 if you assert the attorney/client privilege 19 for something that is asked in this 20 deposition, if testimony is offered on that 21 subject at trial, we'll certainly object to 22 that being entered into evidence and we'll 23 probably file a Motion in Limine in the same</p>

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 9</p> <p>1 regard. So, I just wanted to put that on 2 the record.</p> <p>3 (Whereupon, Defendant's 4 Exhibit Numbers 1 and 2 were 5 marked and attached to the 6 deposition.)</p> <p>7 BY MR. POUNDSTONE</p> <p>8 Q I want to show you what I've 9 marked as Exhibits 1 and 2. Exhibit 1 is a 10 copy of the deposition notice for your 11 deposition today, and Exhibit 2 is a 12 subpoena for documents that we previously 13 served upon you. Have you received both of 14 those documents?</p> <p>15 A Yes, sir.</p> <p>16 Q Okay. And have you reviewed the 17 documents that were requested in each one?</p> <p>18 A Yes.</p> <p>19 Q Okay. And do you have any 20 documents responsive to those requests?</p> <p>21 A Actually, I don't. The only -- 22 the only thing in there, and I believe I 23 wrote you a letter and told you so, the only</p>	<p style="text-align: right;">Page 11</p> <p>1 record, I'm not his lawyer, so 2 whatever he says you can have, you 3 can have.</p> <p>4 (Whereupon, Defendant's 5 Exhibit Numbers 11 and 12A were 6 marked and attached to the 7 deposition.)</p> <p>8 BY MR. POUNDSTONE</p> <p>9 Q Okay. Super. I'm going to mark 10 those. I'm going -- actually, I've got my 11 exhibits premarked. I'm going to mark those 12 as 11 and 12 A.</p> <p>13 A You can just keep them as far as 14 I'm concerned.</p> <p>15 Q Okay. And, again, 11 and 12A are 16 the phone records of which show calls made 17 to Oklahoma City, correct?</p> <p>18 A Right. And I assume that's to 19 that company, Globe.</p> <p>20 Q How long have you known Karen 21 Lurie?</p> <p>22 A Probably 15 to 20 years, at 23 least.</p>
<p style="text-align: right;">Page 10</p> <p>1 thing that I had after looking through my 2 phone records are two telephone calls. 3 Let's see, one call is on March the 10th, 4 2:15 p.m., to Oklahoma City, Oklahoma, 5 telephone number (405)270-1410 for 5.7 6 minutes. And the other one, the other one 7 was on February the 18th for 11.3 minutes, 8 (405)270-1410. That's the only actual 9 records that I have of phone calls.</p> <p>10 Q Okay.</p> <p>11 A Although, I know I probably made 12 15 calls to these people.</p> <p>13 Q And we'll just do it when we take 14 a break, but if we can just make a copy of 15 that, and I'm going to stick an exhibit 16 sticker on it and just put it as an 17 attachment.</p> <p>18 A I can give you these two phone 19 bills and they're in there.</p> <p>20 Q Okay.</p> <p>21 A Along with thousands of other 22 numbers.</p> <p>23 MR. SANSPREE: And just for the</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Okay. How did you come to know 2 Ms. Lurie?</p> <p>3 A I represented her in a custody 4 case involving her daughter, who's now 5 probably 20 or 21 years old. So that would 6 have been about 10 or 15 years ago. She 7 had -- when she got divorced, her husband 8 got custody of the little girl. And I filed 9 a modification to get custody for her, which 10 I was successful over in Henry County. It 11 was a Henry County case. And they appealed 12 the case to the Court of Civil Appeals, and 13 I think they appealed it to the Supreme 14 Court and they lost. And then they came 15 back about a year or two later and filed 16 again and appealed it again and lost again. 17 So I've had extensive dealings with her 18 on that.</p> <p>19 Q Okay.</p> <p>20 A Had nothing to do, you know, with 21 this case.</p> <p>22 Q Okay. Did that proceeding, I 23 take it that was a husband that she was</p>

3 (Pages 9 to 12)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 13</p> <p>1 married to prior to Mr. David Lurie? 2 A Right. 3 Q Is there any other matters, other 4 than the one we're here on today and the 5 custody proceeding, that you represented her 6 on? 7 A No. And I hadn't seen her until 8 Chris got killed. 9 Q And "Chris," I guess "Chris" and 10 David Lurie are the same person? 11 A I didn't know his name was David. 12 I always called him Chris. 13 Q I think the Complaint said David 14 Lurie but he goes by Chris? 15 A Yeah. I always knew him as 16 Chris. Now, I don't know if that's his real 17 name or a nickname or whatever, but that's 18 what I always called him. 19 Q And I assume that you, in 20 addition to the custody proceeding, you also 21 did work for Ms. Lurie in connection with 22 Chris Lurie's death, correct? 23 A Yeah. She called me when he got</p>	<p style="text-align: right;">Page 15</p> <p>1 insurance policies on Chris Lurie that you 2 did work on or helped Ms. Lurie on 3 concerning Chris's death? 4 A I think there were, and I think 5 those have been paid out. 6 Q When was the first time you 7 became aware of the Globe policy that's the 8 subject of this lawsuit? 9 A She came in probably a week or 10 two after he got killed, and she was, like, 11 trying to get all his affairs in order, that 12 type thing. So I would say it was probably 13 -- she would know better than me, but I mean 14 I would say it was a couple weeks -- within 15 a couple weeks after he died. 16 Q Okay. And he died on 17 January 6th, and I believe her testimony 18 indicated that she thought it was around 19 January 12th when she came to see you. 20 A Whatever she would say would 21 probably be accurate. 22 Q Okay. 23 A If I kept my old appointment</p>
<p style="text-align: right;">Page 14</p> <p>1 killed, and I referred her to a lawyer in 2 Dothan, Mark Andrews. And he and I handled 3 that case. 4 Q When say he and you handled that 5 case, what case do you refer to? 6 A It was the wrongful death case. 7 Q Okay. Against the driver? 8 A Against the driver of the car. 9 Actually, I think it was a van he was 10 driving. 11 Q Okay. And I believe the accident 12 report does show that. 13 A Yeah. 14 Q Other than the wrongful death 15 case, the custody matter, and the matter 16 with the insurance policy with Globe Life, 17 are there any other matters in connection -- 18 well, any other matters that you've 19 represented Ms. Lurie on. 20 A Not that I can think of. I'm 21 sure she's called me about stuff over the 22 years, but... 23 Q Are there any other life</p>	<p style="text-align: right;">Page 16</p> <p>1 books going back -- it's been several years. 2 If I kept my appointment books, I could tell 3 you exactly, but I don't think we keep them. 4 Q Did she contact you at any time 5 concerning that policy prior to the death of 6 Chris Lurie? 7 A No. 8 Q Okay. She didn't call you -- she 9 testified that she put it in the mail on 10 January 4th. She didn't -- 11 A She didn't call me about it. 12 Q Okay. You didn't talk to her 13 about the actual check while she was paying 14 it? 15 A No. In fact, I hadn't talked to 16 her until Chris got killed in probably a 17 couple years. 18 Q Okay. So, if I understand your 19 testimony right, she came to see you after 20 his death to talk about a number of issues 21 involving the death and not, specifically, 22 the Globe policy, is that accurate? 23 A Firstly, it was the death case.</p>

FREEDOM COURT REPORTING

Page 17	Page 19
<p>1 And when I talked to her about the death 2 case, I asked her about any insurance 3 policies and that type thing, and I told her 4 I would help her with that, if she needed 5 help.</p> <p>6 And I don't think she brought in the 7 policy that day, or the policies. It might 8 have been the next day or a couple days, but 9 I told her I needed death certificates to 10 send, you know, to file the claim. And if I 11 sent a letter to the company, y'all would 12 have that. I couldn't find it.</p> <p>13 Q Yeah. I do have a letter that I 14 will show you in just a little bit.</p> <p>15 A Okay.</p> <p>16 Q What is the first time you 17 remember discussing the Globe policy with 18 Ms. Lurie?</p> <p>19 A Well, it would have been when she 20 brought in the policies.</p> <p>21 Q What, specifically, do you 22 remember discussing with her about the 23 policy?</p>	<p>1 know what I did next. I think that's the 2 first thing I did.</p> <p>3 Q Okay. Are there any other 4 discussions that you remember having with 5 her concerning the Globe policy prior to the 6 time that you sent the letter in to Globe?</p> <p>7 A No.</p> <p>8 Q Okay. Do you remember what 9 documents you reviewed relating to the 10 policy prior to the initial letter that you 11 sent to Globe?</p> <p>12 A I can't remember. I don't know 13 if I saw the policy or -- I think I did see 14 the policy. She had a policy, and I read 15 through it. And I don't even know what the 16 value of it was. I think it was a hundred 17 thousand dollars.</p> <p>18 And I think what I did then, I called 19 the first day -- I remember like this: I 20 called out there and talked to somebody and 21 asked them what I needed to do to file a 22 claim -- help her file her claim. And she 23 told me a death certificate and some other</p>
Page 18	Page 20
<p>1 A Well, I think -- how many years 2 ago has this been, three?</p> <p>3 Q 2004.</p> <p>4 A 2004. She's -- I think she 5 brought in something saying "your policy was 6 going to lapse if you don't send the money 7 in," or something like that. And she told 8 me at that point that she mailed a check to 9 the company. And it was a fairly 10 insignificant amount of money, \$30 or \$40. 11 It wasn't much money.</p> <p>12 And she said she mailed the check like 13 the day or two before he got killed. And 14 that was one of her questions, would she be 15 covered. And I felt like she would if the 16 check had been in the mail. That's what I 17 learned in law school: If you post 18 something, it's paid -- it's considered paid 19 if they don't receive it until after 20 something happens, it's still valid.</p> <p>21 But I think at that point, she came 22 back later with a death certificate. And 23 you're going to show me the letter so I will</p>	<p>1 stuff. They wanted accident reports. Why, 2 I don't know. But they wanted accident 3 reports from the state troopers, which that 4 was no problem, because the head of the 5 state troopers is a client of mine. So I 6 called him and he got me that, which 7 probably would have taken several weeks to 8 get.</p> <p>9 And, usually, in a death case, it takes 10 them a while to, you know, do the 11 investigation. I think I've got that in 12 here somewhere. I think I've got a copy of 13 what they sent me in here. I've got a pile 14 of stuff. Let's see. See if I can find it; 15 I can give it to you. Let's see. I think 16 they sent me back -- no, this is something 17 Globe sent me.</p> <p>18 But I sent them all this stuff, the 19 accident report, death certificate, you 20 know, that type thing.</p> <p>21 Q Okay. And you said that you 22 believe you had this phone call the first 23 day that Ms. Lurie came to see you?</p>

5 (Pages 17 to 20)

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 21</p> <p>1 A Yes, I think so, or either the 2 second day. I think she came back the next 3 day or the next day.</p> <p>4 Q And just so we're clear on the 5 record, and I think it was alluded to in 6 your previous testimony, you don't have any 7 records that would show the phone call that 8 was made to Globe the first or second day 9 that she came to see you?</p> <p>10 A No. I dialed the 800-number, and 11 it's not on this -- this is the number I 12 called, the two I testified to earlier, that 13 (450)270-1410. But she had a toll-free 14 number, and I don't know what it was.</p> <p>15 Q Okay.</p> <p>16 A And I don't know if I've got 17 another file somewhere floating around the 18 office. I don't think I do.</p> <p>19 Q Did you make any recordings of 20 any phone calls with Globe?</p> <p>21 A No.</p> <p>22 Q Did you ever prepare a memo to 23 the file that summarized what took place in</p>	<p style="text-align: right;">Page 23</p> <p>1 handles claims, or whoever. So I guess it 2 would be the claims department.</p> <p>3 Q And, obviously, you said you 4 guess. You're not real certain who?</p> <p>5 A It would have to be somebody in 6 the claims department, that's what I asked 7 for. They told me how to file a claim, what 8 she needed, you know, what documents they 9 needed, that type thing. I can remember 10 that it wasn't the first person I talked to. 11 They referred me to somebody else, whoever I 12 called.</p> <p>13 Q Okay. Did you have any 14 substantive conversations with anybody else?</p> <p>15 A Not at that time.</p> <p>16 Q Okay. So you make the first 17 call, and was there any discussion at all 18 concerning whether or not the policy was 19 lapsed or had been reinstated in that call?</p> <p>20 A No, not at that time. I assumed 21 everything was fine. The first I heard they 22 weren't going to pay was in May when they 23 sent me that letter. I think I've got it</p>
<p style="text-align: right;">Page 22</p> <p>1 a phone call with Globe?</p> <p>2 A No, there wasn't a file.</p> <p>3 Q Okay.</p> <p>4 A I was just trying to help her out 5 to get her insurance, you know, money. Mark 6 Andrews had the file. I, basically, sent 7 the case to him.</p> <p>8 Q Do you recall who at Globe you 9 talked to?</p> <p>10 A No.</p> <p>11 Q And I'm talking about the initial 12 conversation.</p> <p>13 A I have no idea.</p> <p>14 Q Do you have any records that 15 would show who you spoke with?</p> <p>16 A No.</p> <p>17 Q Do you remember if it was a male 18 or female?</p> <p>19 A Yeah, it was a female, I remember 20 that.</p> <p>21 Q Do you recall what department she 22 worked in?</p> <p>23 A I think I asked for whoever</p>	<p style="text-align: right;">Page 24</p> <p>1 sitting here. May the 18th.</p> <p>2 Q Did you have any conversations at 3 all during this time as to whether or not 4 the policy was in force?</p> <p>5 A Did I have any concerns?</p> <p>6 Q Did you have any conversations 7 with the person at Globe?</p> <p>8 A No. They didn't say anything 9 about that.</p> <p>10 Q All right. Let's just do it this 11 way: Tell me everything that you remember 12 being said during that phone call?</p> <p>13 A Okay. Well, basically, they told 14 me what I needed to send in at that point. 15 And then I want to say it was a week or two 16 later I talked to them, after I sent the 17 stuff, and they said they were going to 18 process the claim and "send you a check."</p> <p>19 You know, I told them, basically, I was 20 not her lawyer as far as trying to get any 21 money. They didn't have to put my name on 22 the check. They could just make it out to 23 her as the widow or the administrator or</p>

FREEDOM COURT REPORTING

Page 25	Page 27
<p>1 whatever she -- I don't know what she did. 2 Mark handled that. I didn't handle that. 3 Q Okay. Anything else that you 4 remember discussing on that first call? Did 5 you even identify who you were calling on 6 behalf of, what the policy number was? 7 A Oh, yeah. Yeah. Yeah. 8 Q Okay. But you didn't have any 9 conversations concerning whether or not the 10 policy was in force? 11 A Not that first call. 12 Q Okay. You didn't have any 13 conversations concerning whether or not it 14 had been reinstated? 15 A Not the first time. Maybe later. 16 Q And you didn't have any 17 conversations about premium history or 18 premium payments or anything like that? 19 A The first time? 20 Q Right. 21 A I might have the second day or 22 the, you know, the next day. 23 Q Okay.</p>	<p>1 a couple days later and we called them 2 again. 3 Q Okay. 4 A And I probably called them ten 5 times after that. Every time I called them, 6 it was just like she would call here and 7 say, "Have you heard anything," or whatever, 8 and I would call them. 9 Q Okay. Have we talked about 10 everything that you remember discussing 11 during that first call? 12 A I think so. 13 Q Okay. Now, you said there's a 14 second call a couple days later. What 15 prompted that second call? 16 A What prompted the second call? 17 Q Uh-huh. 18 A I can't remember. 19 Q Do you remember who you talked 20 with? 21 A No. 22 Q Do you remember if that was a 23 male or female?</p>
Page 26	Page 28
<p>1 A Because she told me that she had 2 just mailed the check. So I think I did 3 not, but not the initial call. But I mean, 4 like, I think I called maybe that Wednesday 5 or something and that came up. 6 Q Okay. 7 A And, you know, I talked to 8 whoever I talked to up there. I said, 9 "Look, it's 30-something dollars, and she 10 mailed it last week, or the week before the 11 fellow got killed." And they said, "As long 12 as we get it by a certain time" -- you know, 13 but I always assumed if you mailed the 14 check, that's the date. But I think they 15 said if they got it by a certain time. 16 Later on, Ms. Lurie said, "Well, you 17 know the check went through," so we didn't 18 have any problem. I didn't think we had a 19 problem until I got this letter of May the 20 whatever. 21 Q Okay. So that first call, all 22 you discussed was how to make a claim? 23 A Yeah. And she came back in like</p>	<p>1 A It was a female, I feel sure. 2 Q Do you remember if it was the 3 same person that you talked to -- 4 A I think at some point I talked to 5 a male later on the down the road in the 6 legal department, but it was a female, I 7 think. 8 Q Okay. Do you remember if it was 9 the same female that you talked to during 10 the first call? 11 A Yeah, it was the same person. 12 Q Okay. Tell me what you recall 13 that y'all talked about during that call? 14 A She felt like -- you know, she 15 was wondering, she might be late on the 16 payment or something. She said she had the 17 payment mailed, and they said that was no 18 problem, as long as they got it by a certain 19 date. And the thing was mailed before he 20 died. I don't know if they got it before 21 that date or not. I feel sure they did. 22 Q Okay. 23 A And I remember this, too. She</p>

7 (Pages 25 to 28)

FREEDOM COURT REPORTING

<p style="text-align: center;">Page 29</p> <p>1 said, basically, she had all her bills 2 sitting out Christmas and just, basically, 3 forgot to mail all the checks, or whatever. 4 And he was starting a new job. In fact, I 5 don't -- I think this might have been his 6 first day of work. I can't remember. He 7 was going to work on his motorcycle when he 8 got killed.</p> <p>9 Q Okay. Is there anything else 10 that you remember discussing in that second 11 call?</p> <p>12 A Other than they assured me no 13 problem, you know, the check's in the mail, 14 no problem. Basically, it's thirty 15 something dollars, they weren't really 16 worried about it. They said, "We'll pay the 17 claim, don't worry about it."</p> <p>18 Q That's what she said, "We'll pay 19 it, don't worry about"?</p> <p>20 A If they got the money. If the 21 thing was timely mailed, and, obviously, not 22 mailed after the man died.</p> <p>23 Q Right. Did y'all talk about</p>	<p style="text-align: center;">Page 31</p> <p>1 force with anyone at Globe? 2 A There might have been one other 3 call. I can't remember. I mean it's been 4 two years ago.</p> <p>5 Q Okay. Do you remember if that 6 other call was before or after you received 7 the letter indicating that they had denied 8 the claim?</p> <p>9 A Oh, it was before. Oh, yeah.</p> <p>10 Q Okay. So you may have had two 11 calls where you discussed whether or not the 12 policy was in force?</p> <p>13 A Well, the two calls that I 14 called, I think those were to the legal 15 department, to make sure they had 16 everything. And they called me several 17 times, too, asking for stuff that I didn't 18 even feel was relevant. I mean they wanted 19 autopsy reports, they wanted police reports. 20 They wasn't -- I said, "Look, he's dead. 21 There's no -- you know, it's not a suicide. 22 It's not any, you know" -- I couldn't 23 understand why they wanted it all.</p>
<p style="text-align: center;">Page 30</p> <p>1 whether or not the policy was within the 2 grace period when the payment was made?</p> <p>3 A Yeah. I think they even waived 4 the grace period because it wasn't but \$30. 5 I mean they just said, well, as long as she 6 mails the check and we get the check by, I 7 want to say she said by next week or 8 whatever, if the thing had been mailed, then 9 you've got no problem. I said okay. And 10 that's basically it.</p> <p>11 You know, the other calls I made were 12 basically saying, you know, "My lady hadn't 13 got her money yet."</p> <p>14 "Well, it's coming. We've approved 15 it."</p> <p>16 They told me that. "We approved the 17 thing. It's already been approved. We're 18 going to get you a check." And it never 19 came, and then in May I got this letter, in 20 May.</p> <p>21 Q Okay. Back to that second call, 22 is that the only call that you ever 23 discussed whether or not the policy was in</p>	<p style="text-align: center;">Page 32</p> <p>1 And I got perturbed at them. They kept 2 calling wanting stuff. And I sent them more 3 than I probably should have even sent them. 4 And I don't know whether I got more 5 perturbed at them or perturbed because 6 Ms. Lurie would call me, you know, and, 7 "Tell me what's going?" I would say, "I 8 don't know what's going on. I mean, they 9 tell me they're going to send you a check. 10 They're going to send it to you. They're 11 not going to send it to me," you know.</p> <p>12 Q Okay.</p> <p>13 A So, that's basically it.</p> <p>14 Q And what I'm trying to find out 15 is, you know, I need to know every time that 16 you talked to somebody at Globe about the 17 coverage issue, whether or not there was 18 coverage for his death. And I know you said 19 the second call y'all discussed it. You 20 said there may have been another call where 21 it was discussed?</p> <p>22 A And they assured me that there 23 was coverage. Because, in fact, later on</p>

8 (Pages 29 to 32)

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 33</p> <p>1 they said, "We've got her money and -- by 2 that time and it's covered and we've 3 approved it and the check is coming." 4 And I told my client that two or three 5 times: "The check is coming." And the only 6 time that I ever thought the check wasn't 7 coming is when they wrote me this letter, 8 this S.J. Whittaker, whoever that is. 9 Q Which is the May 18th, which I've 10 gotten and will make an exhibit later? 11 A Yeah. 12 Q Denial of claim letter? 13 A It says that the premium of \$33 14 was received on January the 16th, 2004. And 15 I don't know -- when I talked to them, I 16 want to say it might have been a day or two 17 before that, they said, "As long as we get 18 the check within the next couple of days, 19 she's covered." 20 Q Even if he's already dead? 21 A Yeah. As long as she did not pay 22 the premium after he died. That was what 23 they told me.</p>	<p style="text-align: right;">Page 35</p> <p>1 something, and I told her just wait until 2 Monday or whatever. 3 Q Did you have any discussions with 4 anyone at Globe concerning the difference in 5 paying a premium late but during the grace 6 period and paying a premium after the grace 7 period and during the lapse, did y'all have 8 any discussions in that regard? 9 A No. 10 Q Did you have -- 11 A The only time I heard about this 12 is when I got this letter. Then it said, 13 "We're unable to accept this premium," and 14 they sent me a check for \$33. They had 15 already cashed the check. They sent me a 16 check for \$33. 17 Q Which was refunding the premium? 18 A Yeah. 19 Q Did you ever make anybody at 20 Globe aware that the check was mailed beyond 21 the 31-day grace period? 22 A The only thing I heard about that 23 was this.</p>
<p style="text-align: right;">Page 34</p> <p>1 Q And did y'all discuss whether or 2 not the premium was considered paid upon 3 mailing or report of receipt? 4 A Yes. And they told me -- and I 5 told them, I said, "It's my understanding, 6 if you mail the check, if it gets lost in 7 the mail or whatever, it's considered -- and 8 you get it like late, it's considered paid." 9 And -- but the person that I was talking to 10 was not a lawyer, but they agreed with me, 11 and they said they felt like that was -- 12 Q Was that that second call? 13 A Yeah. And that was like -- let's 14 see, this says that they got the check on 15 January 16th. He died on -- 16 Q The sixth. 17 A The sixth. I think he died on a 18 Monday, maybe a Tuesday, I can't remember. 19 Let me think. I think he died on a Monday, 20 or maybe he died on a Tuesday. Anyway, I 21 think she came the next Monday is when she 22 came, and I told her not to. She wanted to 23 come in like the day after the funeral or</p>	<p style="text-align: right;">Page 36</p> <p>1 Q Okay. The only time you ever 2 heard about the payment being made beyond 3 the grace period was the 18th letter? 4 A Well, they told me if the payment 5 was made before he died, they would honor -- 6 she would get her check. They said it was 7 late, it's \$33, they give them extra, you 8 know, time or whatever if they forgot to 9 mail the check, they're not going to cancel 10 their policy. That's basically what they 11 told me. 12 Q Okay. But y'all didn't have any 13 discussions as to whether or not it was 14 late, within the grace period, or late, 15 beyond the grace period? 16 A No. I wasn't aware of that until 17 I got this letter and the check for \$33 they 18 sent to me. 19 Q Okay. Which is the May 18th 20 letter. I've got it marked. I will just 21 show it to you and we'll go on and put it in 22 the record. 23 A I'm sure that's the same one I'm</p>

9 (Pages 33 to 36)

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 37</p> <p>1 looking at. 2 (Whereupon, Defendant's 3 Exhibit Number 8 was marked and 4 attached to the deposition.) 5 BY MR. POUNDSTONE 6 Q I believe what I'm handing you 7 marked as Defendant's Exhibit 8 is the 8 May 18th letter, along with the check 9 attached, is that correct? 10 A Yeah. With a little note that 11 says, "If we can help you in any other way, 12 please tell us." 13 Q Okay. Now, I know this has been 14 a while and your memory may not be rock 15 solid on this, but I do want to talk about 16 any additional conversations beyond that 17 second call where you discussed whether or 18 not the policy was in force. And I need to 19 know first, do you specifically remember if 20 that another conversation took place? 21 A Every conversation I ever had 22 with them was, after that, "We got the 23 premium, you've sent us all the documents."</p>	<p style="text-align: right;">Page 39</p> <p>1 Q Did you ever discuss with anybody 2 at Globe how and under what circumstances a 3 policy could be reinstated? 4 A No. They never told me it was 5 cancelled until this. 6 Q Is there anything that you talked 7 about with the Globe representative in that 8 second phone call that we haven't talked 9 about today? 10 A Not that I can think of. 11 Q Okay. And is there anything in 12 any of the phone calls concerning payment of 13 the premium, reinstatement of the policy, or 14 whether or not the policy was in force that 15 we haven't talked about so far today? 16 A No. 17 Q Did you have any discussions with 18 Ms. Lurie as to when she may have put the 19 premium -- overdue premium check in the 20 mail? 21 A Yes. 22 Q Okay. 23 A I remember that.</p>
<p style="text-align: right;">Page 38</p> <p>1 First, they asked me for more documents. I 2 sent them piles of stuff, you know. And 3 once I sent them, they said, "We've got 4 everything we need. We've approved your 5 claim, the check is coming. Tell your lady 6 that the check is coming." And I instructed 7 them to send it to her and not me. 8 Q Okay. How many of these type 9 phone calls do you recall taking place? 10 A Probably eight or ten, at least, 11 or maybe more. 12 Q Do you remember the names of 13 anyone you talked to? 14 A No. 15 Q Do you have any records that 16 would show the names of any of the people 17 that you talked to? 18 A No. 19 Q Did you record any of the calls 20 -- 21 A I don't record any calls of 22 anybody that I -- you know, that I talk to. 23 I think it was against the law to do that.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q Tell me what discussions you had 2 in that record regard? 3 A She said she put the checks in 4 the mail, I want to say maybe Friday or 5 Saturday before he got killed, sometime over 6 the weekend maybe, but that she took them to 7 the post office and they were mailed. So it 8 wasn't like, you know, the day he got 9 killed. It was several days before he got 10 killed. 11 Q Did it strike you as a bit 12 unusual that a Globe employee would tell you 13 that the policy was in force when they 14 didn't receive the premium prior to 15 Mr. Lurie's death? 16 MR. SANSPREE: Object to the 17 form. 18 A Well, they said if it was in the 19 mail it was, you know. I explained to them 20 what happened. The lady mailed the check 21 and then the guy gets killed like the next 22 week. And she says, "As long as you send in 23 these documents, we will send it to whoever</p>

10 (Pages 37 to 40)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 41</p> <p>1 and see if they approve it."</p> <p>2 The next thing I hear, they approved 3 it, until May the whatever, and then they 4 say they didn't approve it. So they told me 5 one thing and then came back two or three 6 months later and sent me this letter.</p> <p>7 Q So, just so we're clear, because 8 your testimony seems a little bit different 9 just then than it did previously, did the 10 Globe person that you talked to say, "Well, 11 just send the stuff in and we'll send it off 12 and see if they approve it," or did they 13 say, "The policy is in force because, you 14 know, the premium was" --</p> <p>15 A Well, they always told me -- I 16 had never heard that the policy wasn't in 17 force, they weren't going to force the 18 policy. But they told me they had to send 19 it to somebody to look at all the stuff I 20 sent them and all that to get final 21 approval. And I sent them everything. I 22 mean it was a pile of stuff.</p> <p>23 Q Did you ever know that Ms. Lurie</p>	<p style="text-align: right;">Page 43</p> <p>1 Q Do you remember any discussions 2 you had with Ms. Lurie concerning this 3 letter?</p> <p>4 A I'm sure I had several.</p> <p>5 Q Do you remember the substance of 6 any of those conversations?</p> <p>7 A No. I think this just -- this 8 just confirms that they wanted the money by 9 the 17th, and I told them the fellow had 10 died. But they said as long as it was sent 11 to them before he died, then they -- you 12 know, it was fine.</p> <p>13 Q Let me ask you this, and hold 14 onto that for just a second.</p> <p>15 A All right.</p> <p>16 Q Do you recognize the handwriting 17 on that document?</p> <p>18 A No, huh-uh. I assume Ms. Lurie 19 wrote that down probably. I don't know. 20 It's not mine.</p> <p>21 Q Will you read the -- will you 22 read the first sentence of paragraph 3 for 23 me?</p>
<p style="text-align: right;">Page 42</p> <p>1 put the premium payment in the mail after 2 the grace period had already expired?</p> <p>3 A I don't know when she did it. I 4 don't know when the grace period was. 5 (Whereupon, Defendant's 6 Exhibit Number was marked 3 and 7 attached to the deposition.)</p> <p>8 BY MR. POUNDSTONE</p> <p>9 Q Okay. You were never aware of 10 those facts. I'll show you what I marked as 11 Exhibit 3. Have you seen that document 12 before?</p> <p>13 A I have. In fact, I don't know 14 how I saw it, but I have seen this.</p> <p>15 Q Do you know if that's something 16 that Ms. Lurie brought to you around the 17 time she came to see you the first or second 18 time?</p> <p>19 A It might have been, but I 20 remember that. I think that was confirmed 21 when I called out there, and they called me 22 and said they received the money, or 23 whatever. So it was -- somebody called me.</p>	<p style="text-align: right;">Page 44</p> <p>1 A "If you had not a chance to do 2 so, please send in your payment along with 3 attached notice and the benefits of your 4 policy will be reinstated, provided the 5 insured is still in good health. We must 6 receive your payment by January 17th, 2004."</p> <p>7 Q Would you agree with me that 8 Chris Lurie was not in good health when 9 Globe received the premium payment?</p> <p>10 A He was deceased.</p> <p>11 Q And that's not good health, is 12 it?</p> <p>13 A No. (Whereupon, Defendant's 14 Exhibit Number 4 was marked and 15 attached to the deposition.)</p> <p>17 BY MR. POUNDSTONE</p> <p>18 Q I'm going to show you what I 19 marked as Exhibit 4. Have you seen that 20 document before?</p> <p>21 A That's my signature. I wrote it, 22 yeah.</p> <p>23 Q Okay. And is that -- earlier we</p>

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 45</p> <p>1 talked about the first written letter that 2 you sent to Globe concerning the claim. Is 3 that the letter that you were talking about?</p> <p>4 A I'm sure -- I don't know if I 5 sent more than that letter or not, but that 6 is a letter I sent concerning some of the 7 stuff they wanted, accident report, death 8 certificate. And then they called back 9 wanting more things. I mean, that's, you 10 know --</p> <p>11 Q Do you remember whether or not 12 this letter was sent after the first call 13 that you had with someone at Globe?</p> <p>14 A Oh, yeah.</p> <p>15 Q Do you remember whether or not it 16 was sent before or after the second call you 17 had with someone at Globe?</p> <p>18 A It would be after. This letter 19 would be after.</p> <p>20 Q Okay. And there's no mention of 21 the premium issue in this letter. Is there 22 any particular reason that you didn't 23 mention that?</p>	<p style="text-align: right;">Page 47</p> <p>1 sent them that. A police report, I had 2 already sent them that. Obituary, I didn't 3 know why they wanted that. We sent it to 4 them. A newspaper article, we sent them 5 that.</p> <p>6 And then this was a problem that I had: 7 Names and addresses of all the doctors who 8 had treated him in the past five years. And 9 this set me off. And I called them, and I 10 said this was ridiculous. And they said, 11 "Well, this is part of our policy, we've got 12 to have this."</p> <p>13 I said, "The man got killed in the car 14 wreck."</p> <p>15 "Well, he might have been diabetic; or 16 he might have had blood pressure problems; 17 or he might have had a heart attack and 18 caused this accident."</p> <p>19 I mean, I got livid. And I can still 20 remember this. I said, "Look, the guy got 21 killed in a head-on collision where the 22 other driver came over into his side of the 23 road. He hit the guy head on with the</p>
<p style="text-align: right;">Page 46</p> <p>1 A It wasn't an issue. She paid the 2 premium.</p> <p>3 Q Okay.</p> <p>4 A And I knew at this point she had 5 paid the premium. They had gotten money. 6 In fact, somebody called me and said they 7 got it by whatever date.</p> <p>8 (Whereupon, Defendant's 9 Exhibit Number 5 was marked and 10 attached to the deposition.)</p> <p>11 BY MR. POUNDSTONE</p> <p>12 Q I'm going to show you what I 13 marked as Exhibit 5. That letter is 14 addressed to Ms. Lurie, so you may or may 15 not have seen it. So let me ask you, have 16 you seen that letter before?</p> <p>17 A Oh, yeah. Yeah. She brought 18 this in, and this is what I'm, you know, 19 talking about the other things she wanted, 20 statement by the beneficiary, attending 21 physician statement, which I didn't know why 22 in the world they wanted that. That was -- 23 you know, a death certificate, I had already</p>	<p style="text-align: right;">Page 48</p> <p>1 motorcycle. He went through the windshield 2 of that van and killed the driver of the 3 other car. Both of them were killed."</p> <p>4 But, you know, I just couldn't 5 understand this. And I remember seeing 6 this, and that set off about two or three 7 phone calls to them about that. So, yes, I 8 saw that.</p> <p>9 Q And just to be clear, I mean, do 10 you -- I mean, you don't have any knowledge 11 of whether or not, you know, conducting such 12 types of investigations are standard or not 13 in the life insurance industry?</p> <p>14 A I would say it's very unusual to 15 say the least when you've got a case that's 16 clearly -- you know, why in the world are 17 they looking at stuff like this? I mean, 18 that -- red flags went off in my head right 19 there that there was trouble with paying the 20 claim when they're wanting all this stuff. 21 I couldn't figure out -- I said something is 22 going on.</p> <p>23 Q Okay. But you've never worked in</p>

12 (Pages 45 to 48)

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 49</p> <p>1 the insurance industry, have you? 2 A No. I've defended insurance 3 companies for a long time though. 4 Q And when you received this 5 February 2004 letter, was it your 6 understanding, at that time, that Globe 7 needed additional information before it 8 could begin the investigation process? 9 A That's what they said, they had 10 to have all that before they would write a 11 check is what they told me. And I think at 12 that stage, I even talked to one of their 13 lawyers or somebody in the legal department. 14 (Whereupon, Defendant's 15 Exhibit Number 6 was marked and 16 attached to the deposition.) 17 BY MR. POUNDSTONE 18 Q Okay. And I'm going to show you 19 what I marked as Exhibit 6. There we go. 20 Okay. Have you seen that letter before? 21 A Well, I know I seen it. I mean I 22 can look at my letterhead and signature. 23 Q Okay. And that is your signature</p>	<p style="text-align: right;">Page 51</p> <p>1 BY MR. POUNDSTONE 2 Q I'm going to show you what I 3 marked as Exhibit 7. Do you recall seeing 4 that letter before? 5 A It was sent to me. I saw it if 6 it was sent to me. 7 Q And it, obviously, is addressed 8 to you, correct? 9 A Right. I'm sure I got it. 10 Q Okay. 11 A That's my address. 12 Q And this letter is dated 13 April 26th, 2004, correct? 14 A Uh-huh. 15 Q Is that your recollection as to 16 the approximate time period when Globe had 17 received all the information that it needed 18 to begin its investigation? 19 A That would have been a lot longer 20 after I sent it to them if I sent it to them 21 on March the 2nd. That's like six weeks 22 later. 23 Q Let me ask you this: Do you</p>
<p style="text-align: right;">Page 50</p> <p>1 there? 2 A Yeah. 3 Q Tell me what that letter is? 4 A Evidently, I sent them a bunch of 5 stuff and that's what, you know -- 6 Q Okay. 7 A The stuff in there that was 8 requested that I hadn't sent them. 9 Q Okay. And that was sent in 10 response to the February 3, letter that we 11 just looked at and marked as Exhibit 5? 12 A Yeah. 13 Q Okay. And this letter is dated 14 March 2nd, correct? 15 A And I don't know who L.S. Lawson 16 is, but that's whoever I talked to. 17 Q Okay. And this letter is dated 18 March 2nd, correct? 19 A Yeah. 20 (Whereupon, Defendant's 21 Exhibit Number 7 was marked and 22 attached to the deposition.)</p>	<p style="text-align: right;">Page 52</p> <p>1 recall whether or not there was additional 2 information that Globe had to obtain a third 3 party to get because it was not provided by 4 either you or Ms. Lurie? 5 A I sent them everything they asked 6 me to send them, I think. 7 Q Let's go back briefly to the 8 May 18th letter. What did you do after you 9 received this letter? 10 A I don't think you want to hear 11 what I did, because it wasn't nice. I hit 12 the damn roof when I saw that letter. I was 13 incensed, and I'm still incensed. And I 14 picked up the telephone, and I'm sure -- I 15 hadn't looked at the date. Let me go back 16 to those phone records, see what these dates 17 were. I think these were before -- that's 18 March the 10th. I'm gone have to look at my 19 phone records. I don't know if I called the 20 toll-free number or not, but I remember 21 calling them. 22 Q Okay. 23 A And I told them there would be a</p>

13 (Pages 49 to 52)

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FREEDOM COURT REPORTING

Page 53	Page 55
<p>1 lawsuit coming; I didn't handle that type 2 lawsuit but I would have somebody that did. 3 Q Okay. Do you remember -- let me 4 ask you this: Did you have just one 5 conversation with Globe after you received 6 the May 18th letter? 7 A I think I probably had two or 8 three. In fact, I think one of their 9 lawyers called me.</p> <p>10 Q Do you remember what lawyer 11 called you? 12 A No. It was one of their 13 corporate people.</p> <p>14 Q Do you remember if it was a male 15 or female? 16 A I'm sure it was a male.</p> <p>17 Q Okay. And how about the other 18 folks you talked to, do you remember who 19 they were? 20 A I can't remember.</p> <p>21 Q Okay. 22 A I can remember getting that 23 letter though, I can remember that.</p>	<p>1 Q Which is Lurie -- 2 A "If we can help you any other 3 way, please tell us." Yeah. 4 Q Did any of the Globe 5 representatives that you talked to explain 6 why they made the decision to deny the 7 claim? 8 A They said it was a corporate 9 decision not to allow it, because they say 10 that the policy had lapsed over a \$15 11 premium or something. And I explained to 12 them that the money had been mailed and 13 that -- before he died, the money had been 14 mailed, they got it before the lapse. I 15 think it was the day before or a couple days 16 before, but they got their money and they 17 cashed the check. 18 And I said, "You cashed the check, 19 because I have a copy of the cashed check." 20 And they said, "Well, we've sent you a 21 refund for that check." 22 I said, "That's real good. I'm going 23 to refer her to an attorney that will file</p>
Page 54	Page 56
<p>1 Q Do you remember anything specific 2 that was discussed in relation to the 3 policy, itself, and the coverage issue 4 during any of those calls? 5 A Yeah. I told them that I had 6 been assured the money was coming, I had 7 been assured that the claim was fine, they 8 just needed this information. And, you 9 know, a lot of this stuff, I didn't 10 understand why they needed it but I provided 11 it. I spent a lot of time getting this 12 information. I wasn't getting paid to do 13 that. You know, I did it as favor to her. 14 The whole, you know -- and I just -- it just 15 -- I was incensed when I got this letter. 16 This is what really incensed me. I don't 17 have a copy of the check, but they put 18 something on there, you know, "If you need 19 anything, we will be glad to help you," or 20 some little --</p> <p>21 Q And that's page 2 of the 22 exhibit -- 23 A Yeah.</p>	<p>1 suit for bad faith against your insurance 2 company. I don't handle that type case. 3 I've represented insurance companies. I've 4 been practicing law for 25 years, and I've 5 basically been a defense lawyer most of my 6 time. And, you know, that's where it's 7 going." 8 And they said, "Well, you go get you 9 somebody real smart." 10 I said, "That's fine." 11 Q Now, when you said that they 12 received a check before it had lapsed -- 13 A Before that date on there. 14 Q Before the date on the -- 15 A That January 17th date. They got 16 the money and put it in the bank before 17 then. 18 Q What you're saying, that they got 19 it before the date on January 17th? 20 A Right. 21 Q That's listed on Exhibit 3, 22 correct? 23 A That's right. That's right.</p>

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 57</p> <p>1 Q But you recognize that the policy 2 was already lapsed before they received the 3 premium, because the grace period expired? 4 A Well, according to this, I mean 5 it tells me, "The benefits of your policy 6 will be reinstated provided the insured is 7 still in good health. We must receive your 8 payment by January 17th." They got their 9 payment. It was mailed before he died. It 10 wasn't mailed after he died. They got the 11 check after he died, but it was mailed 12 before he died.</p> <p>13 Q Okay. But wouldn't you recognize 14 that the term reinstatement means that the 15 policy was lapsed, that there no longer was 16 coverage? 17 A Well, they're telling him he's 18 got coverage. If he had been alive he'd had 19 coverage. 20 Q Well, you don't read that as 21 offer to reinstate the policy, as opposed to 22 an opportunity -- 23 A It's like a late fee or</p>	<p style="text-align: right;">Page 59</p> <p>1 you ever saw that policy? 2 A Yeah, I probably did. 3 Q Okay. And, actually, if you look 4 at the top of the document, it appears to 5 have a faxed tag line that shows that it was 6 either faxed to or from your office at some 7 point. And I don't believe the date is 8 clear enough to be able to read. Is that 9 correct? 10 A Yeah. Right. I must have faxed 11 this -- I don't know if I faxed it to -- I 12 faxed it 10/02. I can't see when it was. 13 Q Could be either January 21st or 14 June 21st. 15 A I don't know. 16 Q Okay. Do you recall whether or 17 not you reviewed the policy before you had 18 those first and second phone conversations 19 with someone at Globe? 20 A I can't remember. 21 Q Do you recognize whose 22 handwriting that is on this policy? 23 A No. It's not mine. I'm sure I</p>
<p style="text-align: right;">Page 58</p> <p>1 something. I mean, they're talking about 2 \$15 or \$20. I mean, you know, get 3 realistic. If this was a thousand dollar 4 premium or something, I can see it being a 5 big deal. 6 (Whereupon, Defendant's 7 Exhibit Number 9 was marked and 8 attached to the deposition.) 9 BY MR. POUNDSTONE 10 Q I'm going to show you what I 11 marked as Exhibit 9, and I will give you the 12 opportunity to look over that. Just let me 13 know when you're ready. 14 A Go ahead. 15 Q Okay. Have you seen that 16 document before? 17 A I'm sure I have. 18 Q Okay. 19 A I don't know. I don't know if 20 I've seen this one or not. 21 Q And I will represent to you that 22 is the Globe policy that Ms. Lurie has 23 produced in this lawsuit. Do you recall if</p>	<p style="text-align: right;">Page 60</p> <p>1 had a copy of this when I mailed them the 2 initial stuff, the death certificate and all 3 that. It's got a thing in here where you've 4 got to send them a notice of death, or 5 whatever, and I sent that letter on 6 January 26th. 7 Q Would you turn to the page of 8 that document that is Bates stamped Lurie 9 0013. 10 A I'm looking at it. 11 Q Okay. Do you see the bottom, 12 last paragraph on that page, where it says, 13 "Termination of coverage"? 14 A Yeah. 15 Q Would you read that for me? 16 A "Coverage of any insurance will 17 terminate at the end of grace period 18 following and premium due date for which 19 insured's fee for required premium is not 20 paid. A premium paid for any period after 21 the date coverage terminates will 22 constitute -- continue the insurer's 23 coverage in force and will be returned"</p>

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 61</p> <p>1 unless accepted by us under the 2 reinstatement provision of the certificate."</p> <p>3 Q Now, sitting here today reading 4 that provision, would you acknowledge that 5 pursuant to the policy, any premiums 6 received after the grace period would only 7 continue the policy if the reinstatement 8 provisions were met?</p> <p>9 A There's several ways to get it 10 back in force if they say it wasn't in 11 force.</p> <p>12 Q But you recognize that that 13 policy language requires in order to keep 14 the policy from terminating, that the 15 reinstatement provisions in the policy be 16 met?</p> <p>17 A You have to pay up what you owe I 18 guess is what they're saying.</p> <p>19 Q Turn to the next page.</p> <p>20 A Which one?</p> <p>21 Q Lurie 0014.</p> <p>22 A Okay.</p> <p>23 Q And do see there's definition,</p>	<p style="text-align: right;">Page 63</p> <p>1 A It had.</p> <p>2 Q And it also run before Ms. Lurie 3 said she placed a check in the mail on 4 January 4th, correct?</p> <p>5 A That's right. It had about a 6 week, I think.</p> <p>7 Q Now, if you drop down to the next 8 line and read the provisions for 9 reinstatement, the next paragraph.</p> <p>10 A "Coverage may be reinstated 11 anytime within one year after default in 12 premium payment if the insured provides 13 evidence of insurability satisfactory to us 14 and all overdue premiums are paid."</p> <p>15 Q Okay. Now, pursuant to that 16 language, you would agree that in order to 17 reinstate the policy, two things were 18 required, correct, one of those?</p> <p>19 A That's what this says, yes.</p> <p>20 Q One of those being evidence of 21 insurability satisfactory to Globe?</p> <p>22 A Yes.</p> <p>23 Q And, two, that all overdue</p>
<p style="text-align: right;">Page 62</p> <p>1 the fourth paragraph down from the top, of 2 grace period?</p> <p>3 A Yeah.</p> <p>4 Q Read that definition for me.</p> <p>5 A "Grace period. A grade period of 6 31 days will be allowed each insured for the 7 payment of each premium after the first 8 during which period his or her insurance 9 shall continue in force."</p> <p>10 Q Okay. Now, do you recognize or 11 you would agree that pursuant to that 12 language, the grace period on the policy 13 extends for a period of 31 days past the 14 date that the premium is due, correct?</p> <p>15 A That's right.</p> <p>16 Q Okay. And you don't dispute in 17 this case that the grace period had lapsed 18 before Globe received the premium on 19 January 16th, do you?</p> <p>20 A No, it hadn't.</p> <p>21 Q Okay. And you don't dispute the 22 fact the grace period had run before 23 Mr. Lurie's death on January 6th, do you?</p>	<p style="text-align: right;">Page 64</p> <p>1 premiums are paid, correct?</p> <p>2 A Yeah.</p> <p>3 Q Now, if you go to the first 4 paragraph under that same page --</p> <p>5 A Is that 14?</p> <p>6 Q Yes, Lurie 14.</p> <p>7 A All right.</p> <p>8 Q And read the provisions for 9 payments. It's the first paragraph.</p> <p>10 A "Each premium a payable in 11 advance at our administrative office."</p> <p>12 Q Okay. Now, sitting here, you 13 acknowledge that pursuant to the policy, 14 payments are made at Globe's administrative 15 office, correct?</p> <p>16 A I assume so.</p> <p>17 Q And it doesn't say payments are 18 made when they're put in the mail, does it?</p> <p>19 A No.</p> <p>20 Q If you will, go back to Lurie 21 0013.</p> <p>22 A Okay.</p> <p>23 Q And drop down to the definition</p>

16 (Pages 61 to 64)

FREEDOM COURT REPORTING

<p>Page 65</p> <p>1 for evidence of insurability, and it's one, 2 two, three, four, five, six, seven, the 3 seventh definition down from the top.</p> <p>4 A Okay. "Satisfaction proof is 5 determined by us that a person is acceptable 6 for insurance."</p> <p>7 Q Okay. Now, surely you'd 8 acknowledge that a deceased man is not 9 acceptable for life insurance, wouldn't you?</p> <p>10 A That's a stupid question. Of 11 course not.</p> <p>12 Q If you would, for me, just one 13 more provision of the policy I want you to 14 take a look at. If you would, go to Lurie 15 0014.</p> <p>16 A Okay.</p> <p>17 Q Under the general provisions, and 18 if you drop down, the seventh paragraph, 19 Entire Contract Changes, will you read that 20 provision for me?</p> <p>21 A "The certificate with group 22 policy enrollment and attached papers, if 23 any, is the entire contract between you and</p>	<p>Page 68</p> <p>1 (Whereupon, Defendant's 2 Exhibit Number 10 was marked and 3 attached to the deposition.)</p> <p>4 BY MR. POUNDSTONE</p> <p>5 Q Okay. I'll show you what I'm 6 going to mark as Exhibit 10 --</p> <p>7 A Okay.</p> <p>8 Q -- and ask if you've seen that 9 document before?</p> <p>10 A Yeah.</p> <p>11 Q Okay. Is that -- well, tell me 12 what that document is.</p> <p>13 A That's an affidavit I executed on 14 November the 2nd of this year.</p> <p>15 Q Okay. Is that your 16 understanding, that this was executed in 17 connection with Ms. Lurie's brief and 18 opposition to our summary judgment motion?</p> <p>19 A Actually, I don't know why -- 20 what the purpose of it was.</p> <p>21 Q It is your affidavit?</p> <p>22 A But it's my affidavit and 23 everything in it is true.</p>
<p>1 us, no changes in this certificate will be 2 effective until approved by us. This 3 approval must be noted or attached to the 4 certificate."</p> <p>5 Q In the entire you were handling 6 this matter for Ms. Lurie, you never 7 received any written modification of this 8 insurance policy, did you?</p> <p>9 A All of it was oral.</p> <p>10 Q So --</p> <p>11 A The only thing written I received 12 was this letter from them.</p> <p>13 Q So your contentions, at least in 14 this case, is that Globe somehow orally 15 modified the terms of this policy, is that 16 correct?</p> <p>17 A I'm not making any contentions.</p> <p>18 MR. SANSPREE: He's just a 19 witness.</p> <p>20 A I'm just a witness, and I'm 21 telling what happened. That's up for a 22 judge to determine whether or not this 23 contract is enforceable or not.</p>	<p>Page 68</p> <p>1 Q Okay. That was my question. 2 Everything in that affidavit is accurate, 3 correct?</p> <p>4 A Yeah.</p> <p>5 Q Okay. Is there anything in that 6 affidavit that you think needs further 7 explaining?</p> <p>8 A It says it pretty good. The only 9 thing that's not in the affidavit concerning 10 this is the extra things they asked me to 11 provide you --</p> <p>12 Q Which we talked about. The 13 additional information --</p> <p>14 A Yeah, we talked about that.</p> <p>15 Q -- requested in that February 16 letter?</p> <p>17 A Doctors' statements, medical 18 records, medical history, that type thing.</p> <p>19 Q Okay. There's two exhibits 20 referenced in that affidavit that were not 21 attached when the brief was filed, and just 22 so -- and I think we've already got them --</p> <p>23 A They're in.</p>

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 69</p> <p>1 Q -- into evidence here. Okay. 2 let's just reference the Exhibit Numbers 3 just so that we get that on the record. The 4 January 26th letter that is referenced in 5 your affidavit as Exhibit A? 6 A Right, I've seen it. 7 Q Is what we marked as Exhibit 4, 8 the letter that's referenced in that 9 affidavit? 10 A Right. I assume that's the same 11 letter. 12 Q And I'm showing you what we 13 earlier marked as Exhibit 8. 14 A Right. 15 Q Is that the letter that is 16 referenced in your affidavit and indicated 17 that it will be attached as Exhibit B? 18 A Right. 19 Q Okay. I see that you've got some 20 files here with you today. 21 A Yeah. 22 Q Do you mind if I glance through 23 there to see if there's any documents that I</p>	<p style="text-align: right;">Page 71</p> <p>1 that is the letter that you sent me in 2 response to the subpoena that we issued, 3 correct? 4 A Yeah. 5 Q Okay. 6 A Yeah. Yeah. 7 Q That is -- well, do you want -- 8 is that something -- let me ask you, I may 9 mark it, I may not. Is that something that 10 you've done since this lawsuit was filed or 11 is that something that you made back in 12 January of 2004? 13 A No, this is recent. 14 Q Okay. 15 A I just wrote down just to remind 16 myself. 17 Q Okay. I don't have any other 18 questions. 19 MR. SANSPREE: I don't have 20 anything. 21 22 23</p>
<p style="text-align: right;">Page 70</p> <p>1 don't have. 2 A Be my guest. 3 Q Okay. 4 A You know, that's -- I don't know 5 if there's -- most of this stuff is 6 connected with this lawsuit. I've just been 7 throwing it in a file. 8 MR. POUNDSTONE: Chris, do you 9 want to look through it first to 10 see if anything -- 11 MR. SANSPREE: I know we gave you 12 a letter one time. 13 MR. POUNDSTONE: Why don't we go 14 off the record and let Chris look 15 at it. 16 (Off-the-record.) 17 (Whereupon, Defendant's 18 Exhibit Number 12B was marked and 19 attached to the deposition.) 20 BY MR. POUNDSTONE 21 Q Show you what I'm going to mark 22 as Exhibit 12B, which is a letter from you 23 to me. And just to put it in the record,</p>	<p style="text-align: right;">Page 72</p> <p>1 CERTIFICATE 2 STATE OF ALABAMA 3 COUNTY OF BUTLER 4 I hereby certify that the above and 5 foregoing deposition was taken down by me in 6 stenotype and the questions and answers 7 thereto were transcribed by means of 8 computer-aided transcription, and that the 9 foregoing represents a true and correct 10 transcript of the testimony given by said 11 witness upon said hearing. 12 I further certify that I am neither of 13 counsel, nor of kin to the parties to the 14 action, nor am I in anywise interested in 15 the result of said cause. 16 17</p> <hr/> <p style="text-align: right;">RENNY MCNAUGHTON Notary Public My Commission Ends 11/06/07</p> <p>18 19 20 21 22 23</p>

FREEDOM COURT REPORTING

Page 73

A able 59:8 accept 35:13 acceptable 65:5 65:9 accepted 61:1 accident 1:10 14:11 20:1,2 20:19 45:7 47:18 accurate 15:21 16:22 68:2 acknowledge 61:4 64:13 65:8 acting 6:4 action 72:14 actual 10:8 16:13 Adams 5:6 addition 13:20 additional 37:16 49:7 52:1 68:13 address 51:11 addressed 46:14 51:7 addresses 47:7 administrative 64:11,14 administrator 24:23 advance 64:11 advised 3:11 affairs 15:11 affidavit 4:16 67:13,21,22 68:2,6,9,20 69:5,9,16 ago 12:6 18:2 31:4 agree 44:7 62:11 63:16 agreed 2:2,11,18	34:10 ahead 58:14 al 1:11 5:16 Alabama 1:2,20 2:8 3:5 5:6,8 6:2,3,5,9 72:2 alive 57:18 Allen 5:13 allow 55:9 allowed 62:6 alluded 21:5 amended 3:6 amount 18:10 Andrews 14:2 22:6 answers 72:6 anybody 23:14 35:19 38:22 39:1 anytime 63:11 Anyway 34:20 anywise 72:14 appealed 12:11 12:13,16 Appeals 12:12 appears 59:4 appointment 15:23 16:2 approval 41:21 66:3 approve 41:1,4 41:12 approved 30:14 30:16,17 33:3 38:4 41:2 66:2 approximate 51:16 approximately 2:10 6:9 April 51:13 Arant 5:5 article 47:4 asked 8:19 17:2 19:21 22:23	23:6 38:1 52:5 68:10 asking 31:17 assert 8:12,18 assign 2:23 assume 8:4 11:18 13:19 Allen 5:13 allow 55:9 allowed 62:6 alluded 21:5 amended 3:6 amount 18:10 Andrews 14:2 22:6 answers 72:6 anybody 23:14 35:19 38:22 39:1 anytime 63:11 Anyway 34:20 anywise 72:14 appealed 12:11 12:13,16 Appeals 12:12 appears 59:4 appointment 15:23 16:2 approval 41:21 66:3 approve 41:1,4 41:12 approved 30:14 30:16,17 33:3 38:4 41:2 66:2 approximate 51:16 approximately 2:10 6:9 April 51:13 Arant 5:5 article 47:4 asked 8:19 17:2 19:21 22:23	71:11 bad 56:1 bank 56:16 basically 22:6 24:13,19 29:1 29:2,14 30:10 30:12 32:13 36:10 56:5 Bates 60:8 Beasley 5:13 behalf 25:6 believe 9:22 14:11 15:17 attached 9:5 11:6 37:4,9 42:7 44:3,16 46:10 49:16 50:22 58:8 65:22 66:3 67:3 68:21 69:17 70:19 attachment 10:17 attack 47:17 attending 46:20 attorney 7:3 8:2 8:9 55:23 attorney/client 8:12,15,18 autopsy 31:19 Avenue 5:7 aware 15:7 35:20 36:16 42:9 a.m 2:10 6:10	20:22 21:7 22:1 23:17,19 24:12 25:4,11 26:3,21 27:6,8 27:11,14,15,16 28:10,13 29:11 30:21,22 31:3 31:6 32:6,19 32:20 34:12 37:17 39:8 45:12,16 called 8:6 13:12 13:18,23 14:21 19:18,20 20:6 21:12 23:12 beneficiary 46:20 benefits 44:3 57:5 better 15:13 beyond 35:20 36:2,15 37:16 big 58:5 bills 10:19 29:1 bit 17:14 40:11 41:8 blood 47:16 books 16:1,2 bottom 60:11 Bradley 5:5 break 10:14 brief 67:17 68:21 briefly 52:7 brought 17:6,20 18:5 42:16 46:17 bunch 50:4 Bush 6:22 BUTLER 72:3
			B B 4:5,19 69:17 back 12:15 16:1 18:22 20:16 21:2 26:23 30:21 41:5 45:8 52:7,15 61:10 64:20	case 1:5 7:17 12:4,11,12,21 14:3,5,5,6,15 16:23 17:2 20:9 22:7 48:15 56:2 62:17 66:14 cashed 35:15 55:17,18,19 cause 6:12 72:15 caused 47:18 Center 5:6

FREEDOM COURT REPORTING

Page 74

certain 23:4 26:12,15 28:18	Civil 3:5 6:6 12:12	68:9 concerns 24:5 conducting 48:11	72:3 couple 15:14,15 16:17 17:8 27:1,14 33:18 55:15	40:9 55:15 62:6,13 dead 31:20 33:20
certainly 8:13 8:21	claim 17:10 19:22,22 23:7	confirmed 42:20 confirms 43:8 connected 70:6	course 65:11 Court 1:1 2:6,16 3:12,13 6:1 12:12,14	deal 58:5 dealings 12:17 death 13:22 14:6 14:14 15:3 16:5,20,21,23
certificate 18:22 19:23 20:19 45:8 46:23 60:2 61:2 65:21 66:1,4 72:1	24:18 26:22 29:17 31:8 33:12 38:5 45:2 48:20 54:7 55:7	connection 13:21 14:17 claims 23:1,2,6 Clayhatchee 7:7	coverage 32:17 32:18,23 54:3 57:16,18,19 60:13,16,21,23	17:1,9 18:22 19:23 20:9,19 32:18 40:15 45:7 46:23 60:2,4 62:23
certificates 17:9 certify 6:4 72:4 72:12	clear 21:4 41:7 48:9 59:8	considered 18:18 34:2,7,8 constitute 60:22	deceased 44:10 65:8	
chance 44:1 changes 65:19 66:1	clearly 48:16 client 20:5 33:4	contact 16:4 contentions 66:13,17	December 1:19 2:9 3:10 6:10	
check 16:13 18:8,12,16 24:18,22 26:2 26:14,17 30:6 30:6,18 32:9 33:3,5,6,18 34:6,14 35:14 35:15,16,20 36:6,9,17 37:8 38:5,6 39:19 40:20 49:11 54:17 55:17,18 55:19,21 56:12 57:11 63:3	collision 47:21 come 12:1 34:23 coming 30:14 33:3,5,7 38:5,6 53:1 54:6	continue 60:22 61:7 62:9	contract 65:19 65:23 66:23	decision 55:6,9 default 63:11
checks 29:3 40:3 check's 29:13	commencing 2:9 6:9	conversation 22:12 37:20,21 53:5	conversation 22:12 37:20,21 53:5	DEFENDANT
Chris 13:8,9,9 13:12,14,16,22 15:1 16:6,16 44:8 70:8,14	Commerce 5:6 5:15	copies 9:10 10:14 20:12 54:17 55:19 60:1	D 1:18 2:5 3:6 4:1 6:1	5:3
Christmas 29:2 Christopher 5:12	Commission 72:19	corporate 53:13 55:8	damn 52:12 date 6:5 26:14 28:19,21 46:7 52:15 56:13,14 56:15,19 59:7 60:18,21 62:14	Defendant's 4:6 9:3 11:4 37:2,7 42:5 44:14 46:8 49:14 50:20 58:6 67:1 70:17
Chris's 15:3 circumstances 39:2	Commissioner 1:17 6:4	correct 7:17 11:17 13:22	dated 50:13,17 51:12	Defendant(s) 1:12
City 7:7 10:4 11:17	companies 49:3 56:3	compliance 2:15 computer-aided 72:8	dates 52:16 daughter 12:4	defended 49:2 defense 56:5 definition 61:23
	company 1:11 11:19 17:11	Complaint 13:13	David 13:1,10 13:11,13	62:4 64:23 65:3
	18:9 56:2	compliance 2:15 computer-aided 51:8,13 56:22	day 2:9 3:9 6:10 17:7,8 18:13	delivering 3:7
		concerned 11:14 concerning 15:3 16:5 19:5	19:19 20:23	Denial 33:12
	23:18 25:9,13	63:4,18 64:1 64:15 66:16 68:3 71:3 72:9	21:2,3,3,8 25:21,22 29:6	denied 31:7
	35:4 39:12	counsel 2:4,20 2:22 6:7 72:13	33:16 34:23 40:8 55:15	deny 55:6
	43:2 45:2,6	County 12:10,11	days 17:8 27:1 27:14 33:18	department 22:21 23:2,6 28:6 31:15 49:13
				deposition 1:14

FREEDOM COURT REPORTING

Page 75

2:4,13,14 3:2	43:17 44:20	65:1 69:1	59:6,10,11,12	floating 21:17
4:7 8:8,20 9:6	58:16 59:4	Evidently 50:4	February 10:7	folks 53:18
9:10,11 11:7	60:8 67:9,12	exactly 16:3	49:5 50:10	following 6:13
37:4 42:7	documents 9:12	examination 4:2	68:15	60:18
44:16 46:10	9:14,17,20	6:12,18	fee 57:23 60:19	follows 6:17
49:16 50:22	19:9 23:8	examined 6:16	feel 28:1,21	force 2:14 8:14
58:8 67:3	37:23 38:1	executed 67:13	31:18	24:4 25:10
70:19 72:5	40:23 69:23	67:16	fellow 26:11	31:1,12 37:18
depositions 2:17	doing 8:4	exhibit 9:4,9,11	43:9	39:14 40:13
determine 66:22	dollar 58:3	10:15 11:5	felt 18:15 28:14	41:13,17,17
determined 65:5	dollars 19:17	33:10 37:3,7	34:11	60:23 61:10,11
diabetic 47:15	26:9 29:15	42:6,11 44:15	female 22:18,19	62:9
dialed 21:10	Dothan 7:8,11	44:19 46:9,13	27:23 28:1,6,9	foregoing 6:6
died 15:15,16	14:2	49:15,19 50:11	53:15	72:5,9
28:20 29:22	driver 14:7,8	50:21 51:3	figure 48:21	forget 36:8
33:22 34:15,17	47:22 48:2	54:22 56:21	file 8:23 17:10	forgot 29:3
34:19,20 36:5	driving 14:10	58:7,11 67:2,6	19:21,22 21:17	form 2:21 40:17
43:10,11 55:13	drop 63:7 64:23	69:2,5,7,13,17	21:23 22:2,6	four 65:2
57:9,10,11,12	65:18	70:18,22	23:7 55:23	fourth 62:1
difference 35:4	due 60:18 62:14	exhibits 3:10 9:9	70:7	Friday 40:4
different 41:8	duly 6:16	11:11 68:19	filed 3:13 12:8	full 2:15 6:20
discuss 34:1	<hr/>	expect 8:5	12:15 68:21	funeral 34:23
39:1	E	expired 42:2	71:10	further 2:11,18
discussed 26:22	E 4:1,5 5:1,1,4	57:3	68:6 72:12	<hr/>
30:23 31:11	earlier 21:12	explain 55:5	G	general 65:17
32:19,21 37:17	44:23 69:13	explained 40:19	getting 53:22	54:11,12
54:2	effect 2:14	55:11	girl 12:8	glad 54:19
discussing 17:17	effective 3:6	explaining 68:7	give 10:18 20:15	glance 69:22
17:22 25:4	66:2	extends 62:13	36:7 58:11	Globe 1:10
27:10 29:10	eight 38:10	extensive 12:17	given 72:10	11:19 14:16
discussion 23:17	either 21:1 52:4	extra 36:7 68:10	glad 54:19	15:7 16:22
discussions 19:4	59:6,13	<hr/>	glance 69:22	17:17 19:5,6
35:3,8 36:13	employee 40:12	F	Globe 1:10	19:11 20:17
39:17 40:1	Ends 72:19	fact 16:15 29:4	21:8,20 22:1,8	21:8,20 22:1,8
43:1	enforceable	32:23 42:13	Firstly 16:23	24:7 31:1
dispute 62:16,21	66:23	46:6 53:8	five 47:8 65:2	32:16 35:4,20
DISTRICT 1:1	enrollment	62:22	favor 54:13	39:2,7 40:12
1:2	65:22	facts 42:10	faxed 4:15 59:5	
DIVISION 1:3	entered 8:22	fairly 18:9		
divorced 12:7	entire 65:19,23	faith 56:1		
divulge 8:14	66:5	far 11:13 24:20		
doctors 47:7	et 1:11	39:15		
68:17	evidence 3:2	favor 54:13		
document 42:11	8:22 63:13,20	flags 48:18		

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 76

41:10 44:9 45:2,13,17 49:6 51:16 52:2 53:5 55:4 58:22 59:19 62:18 63:21 66:14 Globe's 64:14 go 6:23 36:21 49:19 52:7,15 56:8 58:14 64:3,20 65:14 70:13 goes 13:14 going 8:13 10:15 11:9,10,11 16:1 18:6,23 23:22 24:17 29:7 30:18 32:7,8,9,10,11 36:9 41:17 44:18 46:12 48:22 49:18 51:2 55:22 56:7 58:10 67:6 70:21 good 44:5,8,11 55:22 57:7 68:8 gotten 33:10 46:5 grace 30:2,4 35:5,6,21 36:3 36:14,15 42:2 42:4 57:3 60:17 61:6 62:2,5,12,17 62:22 grade 62:5 Greenville 6:2 grounds 2:23 group 65:21 guess 13:9 23:1 23:4 61:18	guest 70:2 guy 40:21 47:20 47:23 <hr/> H H 4:5 handing 37:6 handle 25:2 53:1 56:2 handled 14:2,4 25:2 handles 23:1 handling 66:5 handwriting 43:16 59:22 happened 40:20 66:21 happens 18:20 head 20:4 47:23 48:18 head-on 47:21 health 44:5,8,11 57:7 hear 41:2 52:10 heard 23:21 27:7 35:11,22 36:2 41:16 hearing 72:11 heart 47:17 help 17:4,5 19:22 22:4 37:11 54:19 55:2 helped 15:2 Henry 12:10,11 history 25:17 68:18 hit 47:23 52:11 hold 43:13 honor 36:5 huh-uh 43:18 hundred 19:16 husband 12:7,23 <hr/> I	idea 22:13 identify 25:5 incensed 52:13 52:13 54:15,16 indicated 15:18 69:16 indicating 31:7 industry 48:13 49:1 information 49:7 51:17 52:2 54:8,12 68:13 initial 19:10 22:11 26:3 60:2 insignificant 18:10 instances 8:11 instructed 38:6 insurability 63:13,21 65:1 insurance 1:10 14:16 15:1 17:2 22:5 48:13 49:1,2 56:1,3 60:16 62:8 65:6,9 66:8 insured 44:5 57:6 62:6 63:12 insured's 60:19 insurer's 60:22 interested 72:14 investigation 20:11 49:8 51:18 investigations 48:12 involving 12:4 16:21 issue 32:17 45:21 46:1	54:3 issued 71:2 issues 16:20 IV 5:4 <hr/> J January 15:17 15:19 16:10 33:14 34:15 44:6 56:15,19 57:8 59:13 60:6 62:19,23 63:4 69:4 71:12 job 29:4 Jr 6:22 judge 7:3,6,12 7:14 66:22 judgment 67:18 June 59:14 <hr/> K Karen 1:6 11:20 keep 11:13 16:3 61:13 kept 15:23 16:2 32:1 killed 13:8 14:1 15:10 16:16 18:13 26:11 29:8 40:5,9,10 40:21 47:13,21 48:2,3 kin 72:13 kind 7:12 knew 13:15 46:4 know 10:11 12:1 12:20 13:11,16 15:13 17:10 19:1,12,15 20:2,10,20 21:14,16 22:5 23:8 24:19 25:1,22 26:7 26:12,17 28:14	28:20 29:13 30:11,12 31:21 31:22 32:4,6,8 32:11,15,15,18 33:15 36:8 37:13,19 38:2 38:22 40:8,19 41:14,23 42:3 42:4,13,15 43:12,19 45:4 45:10 46:18,21 46:23 47:3 48:4,11,16 49:21 50:5,15 52:19 54:9,13 54:14,18 56:6 58:2,13,19,19 59:11,15 67:19 70:4,4,11 knowledge 48:10 known 11:20 <hr/> L L 2:1 lady 30:12 38:5 40:20 language 61:13 62:12 63:16 lapse 18:6 35:7 55:14 lapsed 23:19 55:10 56:12 57:2,15 62:17 Large 2:7 6:4 late 28:15 34:8 35:5 36:7,14 36:14 57:23 law 18:17 38:23 56:4 laws 2:16 Lawson 50:15 lawsuit 7:23 8:3 15:8 53:1,2
--	--	---	--	--

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 77

58:23 70:6 71:10 lawyer 11:1 14:1 24:20 34:10 53:10 56:5 lawyers 49:13 53:9 leading 2:21 learned 18:17 legal 28:6 31:14 49:13 letter 4:9,10,11 4:12,13,14,19 9:23 17:11,13 18:23 19:6,10 23:23 26:19 30:19 31:7 33:7,12 35:12 36:3,17,20 37:8 41:6 43:3 45:1,3,5,6,12 45:18,21 46:13 46:16 49:5,20 50:3,10,13,17 51:4,12 52:8,9 52:12 53:6,23 54:15 60:5 66:12 68:16 69:4,8,11,15 70:12,22 71:1 letterhead 49:22 let's 10:3 20:14 20:15 24:10 34:13 52:7 69:2 life 1:10 14:16 14:23 48:13 65:9 Limine 8:23 line 59:5 63:8 listed 56:21 little 12:8 17:14 37:10 41:8 54:20	livid 47:19 LLP 5:5 long 11:20 26:11 28:18 30:5 33:17,21 40:22 43:10 49:3 longer 51:19 57:15 look 26:9 31:20 41:19 47:20 49:22 52:18 58:12 59:3 65:14 70:9,14 looked 50:11 52:15 looking 10:1 37:1 48:17 60:10 lost 12:14,16 34:6 lot 51:19 54:9,11 Lurie 1:6 7:16 8:10 11:21 12:2 13:1,10 13:14,21 14:19 15:1,2 16:6 17:18 20:23 26:16 32:6 39:18 41:23 42:16 43:2,18 44:8 46:14 52:4 55:1 58:22 60:8 61:21 63:2 64:6,20 65:14 66:6 Lurie's 13:22 40:15 62:23 67:17 L.S 50:15	mean 15:13 26:3 30:5 31:3,18 32:8 41:22 45:9 47:19 48:9,10,17 49:21 57:4 58:1,2 means 57:14 72:7 medical 68:17 68:18 mails 30:6 making 66:17 male 22:17 27:23 28:5 53:14,16 man 29:22 47:13 65:8 March 10:3 50:14,18 51:21 52:18 mark 11:9,11 14:2 22:5 25:2 67:6 70:21 71:9 marked 9:5,9 11:6 36:20 37:3,7 42:6,10 44:15,19 46:9 46:13 49:15,19 50:11,21 51:3 58:7,11 67:2 69:7,13 70:18 married 13:1 matter 14:15,15 66:6 matters 13:3 14:17,18 Matthews 1:15 2:5,8 6:8,11,15 6:22 McNaughton 1:18 2:6 3:7 6:1 72:17	moved 7:11 Municipal 7:14 <hr/> N N 2:1 4:1 5:1 name 6:21 13:11 13:17 24:21 names 38:12,16 47:7 necessary 2:19 need 32:15 37:18 38:4 54:18 needed 17:4,9 19:21 23:8,9 24:14 49:7 51:17 54:8,10 needs 68:6 neither 72:12 never 30:18 39:4 41:16 42:9 48:23 66:6 new 29:4 newspaper 47:4 Newton 7:8 nice 52:11 nickname 13:17 Notary 2:6 6:3 72:18 note 37:10 noted 66:3 notice 4:7 9:10 44:3 60:4 noticed 7:15 November 67:14 number 10:5 16:20 21:11,14 25:6 37:3 42:6 44:15 46:9 49:15 50:21 52:20 58:7 67:2 70:18 numbers 9:4 10:22 11:5
---	---	--	---

FREEDOM COURT REPORTING

Page 78

69:2	50:6,9,13,17 51:10 52:22 O O 2:1 Obituary 47:2 object 8:21 40:16 objections 2:20 2:23 obtain 52:2 obviously 8:8 23:3 29:21 51:7 offer 57:21 offered 3:2 8:20 office 21:18 40:7 59:6 64:11,15 offices 2:7 6:8 Off-the-record 70:16 Oh 25:7 31:9,9 45:14 46:17 okay 7:9,12,19 7:21 9:16,19 10:10,20 11:9 11:15 12:1,19 12:22 14:7,11 15:16,22 16:8 16:12,18 17:15 19:3,8 20:21 21:15 22:3 23:13,16 24:13 25:3,8,12,23 26:6,21 27:3,9 27:13 28:8,12 28:22 29:9 30:9,21 31:5 31:10 32:12 36:1,12,19 37:13 38:8 39:11,22 42:9 44:23 45:20 46:3 48:23 49:18,20,23	53:3,17,21 57:13 58:15,18 59:3,16 60:11 61:22 62:10,16 62:21 63:15 64:12,22 65:4 65:7,16 67:5,7 67:11,15 68:1 68:5,19 69:1 69:19 70:3 71:5,14,17 Oklahoma 10:4 10:4 11:17 old 12:5 15:23 once 38:3 opportunity 57:22 58:12 opposed 57:21 opposition 67:18 oral 3:9 6:12 66:9 orally 66:14 order 15:11 61:13 63:16 original 3:8 overdue 39:19 63:14,23 owe 61:17 Ozark 1:20 2:8 25:3,8,12,23 26:6,21 27:3,9 27:13 28:8,12 28:22 29:9 30:9,21 31:5 31:10 32:12 36:1,12,19 37:13 38:8 39:11,22 42:9 44:23 45:20 46:3 48:23 49:18,20,23	papers 65:22 paragraph 43:22 60:12 62:1 63:9 64:4 part 47:11 particular 45:22 parties 2:3,22 72:13 party 7:23 52:3 part-time 7:14 pay 23:22 29:16 29:18 33:21 61:17 payable 64:10 paying 16:13 35:5,6 48:19 payment 28:16 28:17 30:2 36:2,4 39:12 42:1 44:2,6,9 57:8,9 62:7 63:12 payments 25:18 64:9,14,17 people 10:12 38:16 53:13 period 30:2,4 35:6,7,21 36:3 36:14,15 42:2 42:4 51:16 57:3 60:17,20 61:6 62:2,5,5,8 62:12,13,17,22 person 13:10 23:10 24:7 28:3,11 34:9 41:10 65:5 perturbed 32:1 32:5,5 phone 4:17,18 10:2,9,18 11:16 20:22 21:7,20 22:1	24:12 38:9 39:8,12 48:7 52:16,19 59:18 physician 46:21 picked 52:14 pile 20:13 41:22 piles 38:2 place 21:23 37:20 38:9 placed 63:3 PLAINTIFF 5:11 Plaintiff(s) 1:8 please 3:11 6:20 37:12 44:2 55:3 point 18:8,21 35:17 37:23 39:13,19,19 40:14 41:14 42:1 44:9 45:21 46:2,5 55:11 57:3 58:4 60:18,19 policy 4:15 60:20 62:7,14 62:18 63:12 64:10 premiums 61:5 63:14 64:1 prepare 21:22 pressure 47:16 pretty 68:8 previous 21:6 previously 9:12 41:9 prior 3:2 13:1 16:5 19:5,10 40:14 privilege 8:13 8:16,18 probably 8:23 10:11 11:22 12:5 15:9,12 15:21 16:16 20:7 27:4 32:3	Portis 5:13 position 8:17 post 18:17 40:7 Poundstone 3:8 4:3 5:4 6:19 9:7 11:8 37:5 42:8 44:17 46:11 49:17 51:1 58:9 67:4 70:8,13,20 practicing 56:4 premarked 11:11 premium 25:17 25:18 33:13,22 34:2 35:5,6,13 point 18:8,21 35:17 37:23 39:13,19,19 40:14 41:14 42:1 44:9 45:21 46:2,5 55:11 57:3 58:4 60:18,19 policy 4:15 60:20 62:7,14 62:18 63:12 64:10 premiums 61:5 63:14 64:1 prepare 21:22 pressure 47:16 pretty 68:8 previous 21:6 previously 9:12 41:9 prior 3:2 13:1 16:5 19:5,10 40:14 privilege 8:13 8:16,18 probably 8:23 10:11 11:22 12:5 15:9,12 15:21 16:16 20:7 27:4 32:3
------	--	---	---	--	---

FREEDOM COURT REPORTING

Page 79

Q	R	S
38:10 43:19	record 6:21 8:17	reviewed 9:16
53:7 59:2	9:2 11:1 21:5	19:9 59:17
problem 20:4	36:22 38:19,21	ridiculous 47:10
26:18,19 28:18	40:2 69:3	right 8:1 11:18
29:13,14 30:9	70:14,23	13:2 16:19
47:6	recordings	24:10 25:20
problems 47:16	21:19	29:23 43:15
Procedure 3:5	records 4:8,17	48:18 51:9
6:6	4:18 10:2,9	56:20,23,23
proceeding	11:16 21:7	59:10 62:15
12:22 13:5,20	22:14 38:15	Renny 1:18 2:5
proceedings	52:16,19 68:18	3:6 6:1 72:17
6:13	red 48:18	report 14:12
process 24:18	refer 14:5 55:23	20:19 34:3
49:8	reference 69:2	45:7 47:1
produced 58:23	referenced	Reporter 2:6
profession 7:2	68:20 69:4,8	3:12 6:2
prompted 27:15	69:16	reports 20:1,3
27:16	referred 14:1	31:19,19
proof 65:4	23:11	represent 8:10
provide 68:11	refund 55:21	58:21
provided 44:4	refunding 35:17	representative
52:3 54:10	regard 9:1 35:8	39:7
57:6	40:2	representatives
provides 63:12	reinstate 57:21	55:5
provision 61:2,4	63:17	represented
65:13,20	reinstated 23:19	12:3 13:5
provisions 61:8	25:14 39:3	14:19 56:3
61:15 63:8	receive 18:19	representing
64:8 65:17	44:4 57:6	7:16
Public 2:7 6:3	63:10	represents 72:9
72:18	reinstatement	requested 9:17
purpose 67:20	39:13 57:14	50:8 68:15
pursuant 6:5	61:2,7,15 63:9	requests 9:20
61:5 62:11	relating 2:16	required 60:19
63:15 64:13	19:9	63:18
put 9:1 10:16	relation 54:2	requires 61:13
16:9 24:21	relevant 31:18	respective 2:3
36:21 39:18	17:22 19:4,8	response 50:10
40:3 42:1	19:12,19 22:17	71:2
54:17 56:16	22:19 23:9	responsive 9:20
64:18 70:23	24:11 25:4	result 72:15
P.C 5:14	27:10,18,19,22	retained 3:12
p.m 10:4	28:2,8,23 29:6	returned 60:23

FREEDOM COURT REPORTING

Page 80

school 18:17	71:1	state 2:7 6:3,20	45:4 51:9	ten 27:4 38:10
second 21:2,8	sentence 43:22	20:3,5 72:2	52:14 53:16	term 57:14
25:21 27:14,15	served 9:13	statement 46:20	58:17 59:23	terminate 60:17
27:16 29:10	set 47:9 48:6	46:21	surely 65:7	terminates
30:21 32:19	seven 65:2	statements	sworn 6:16	60:21
34:12 37:17	seventh 65:3,18	68:17	S.J 33:8	terminating
39:8 42:17	show 9:8 11:16	STATES 1:1		61:14
43:14 45:16	14:12 17:14	stenotype 72:6	Termination	
59:18	18:23 21:7	stick 10:15	60:13	
see 10:3 15:19	22:15 36:21	sticker 10:16	terms 66:15	
16:19 19:13	38:16 42:10	STIPULATED	testified 6:17	
20:14,14,15,23	44:18 46:12	2:2,11,18	16:9 21:12	
21:9 34:14	49:18 51:2	stipulation 6:7	testify 8:5	
41:1,12 42:17	58:10 67:5	Street 5:15	testimony 1:14	
52:16 58:4	70:21	strike 40:11	3:9 8:20 15:17	
59:12 60:11	showing 69:12	stuff 7:14 8:14	16:19 21:6	
61:23 69:19,23	shows 59:5	14:21 20:1,14	41:8 72:10	
70:10	side 47:22	20:18 24:17	thereto 3:3 72:7	
seeing 48:5 51:3	signature 2:12	31:17 32:2	thing 9:22 10:1	
seen 13:7 42:11	44:21 49:22,23	38:2 41:11,19	15:12 17:3	
42:14 44:19	sir 8:6 9:15	41:22 45:7	19:2 20:20	
46:15,16 49:20	sitting 24:1 29:2	48:17,20 50:5	23:9 28:19	
49:21 58:15,20	61:3 64:12	50:7 54:9 60:2	29:21 30:8,17	
67:8 69:6	six 51:21 65:2	70:5	35:22 41:2,5	
send 17:10 18:6	sixth 34:16,17	stupid 65:10	60:3 66:11	
24:14,18 32:9	smart 56:9	subject 8:21	68:9,18	
32:10,11 38:7	solid 37:15	15:8	things 45:9	
40:22,23 41:11	somebody 19:20	subpoena 4:8	46:19 63:17	
41:11,18 44:2	23:5,11 32:16	9:12 71:2	68:10	
52:6 60:4	41:19 42:23	substance 43:5	think 8:3 12:13	
sent 17:11 19:6	46:6 49:13	substantive	13:13 14:9,20	
19:11 20:13,16	53:2 56:9	23:14	15:4,4 16:3	
20:17,18 22:6	SOUTHERN	successful 12:10	17:6 18:1,4,21	
23:23 24:16	1:3	suicide 31:21	19:1,13,16,18	
32:2,3 35:14	specific 54:1	suit 56:1	20:11,12,15	
35:15 36:18	specifically	Suite 5:7	21:1,2,5,18	
37:23 38:2,3	16:21 17:21	summarized	22:23 23:23	
41:6,20,21	37:19	21:23	26:2,4,14,18	
43:10 45:2,5,6	spent 54:11	summary 67:18	27:12 28:4,7	
45:12,16 47:1	spoke 22:15	Super 11:9	29:5 30:3	
47:2,3,4 50:4,8	stage 49:12	Supreme 12:13	31:14 34:17,19	
50:9 51:5,6,20	stamped 60:8	sure 14:21 28:1	34:19,21 38:23	
51:20 52:5	standard 48:12	28:21 31:15	39:10 42:20	
55:20 60:5	starting 29:4	36:23 43:4	43:7 49:11	

FREEDOM COURT REPORTING

Page 81

52:6,10,17	top 59:4 62:1	67:16	weekend 40:6	66:7,11
53:7,8 55:15	65:3	unethical 7:22	weeks 15:14,15	wrongful 14:6
63:6 68:6,22	transcribed 72:7	UNITED 1:1	20:7 51:21	14:14
third 52:2	transcript 3:8	unusual 8:9	went 26:17 48:1	wrote 9:23 33:7
thirty 29:14	72:10	40:12 48:14	48:18	43:19 44:21
thought 15:18	transcription	usually 20:9	weren't 23:22	71:15
33:6	72:8		29:15 41:17	
thousand 19:17	treated 47:8	V	we'll 8:21,22	X
58:3	trial 3:1 8:5,17	v 1:9	10:13 29:16,18	X 4:1,5
thousands 10:21	8:21	valid 18:20	36:21 41:11	
three 18:2 33:4	troopers 20:3,5	value 19:16	we're 13:4 21:4	Y
41:5 48:6 53:8	trouble 48:19	van 14:9 48:2	30:17 35:13	yeah 7:1,18 8:7
65:2	true 67:23 72:9		41:7	13:15,23 14:13
throwing 70:7	try 8:14	W	we've 30:14 33:1	17:13 22:19
time 3:1,1 15:6	trying 15:11	wait 35:1	33:2 38:3,4	25:7,7,7 26:23
16:4 17:16	22:4 24:20	waived 2:13	47:11 55:20	28:11 30:3
19:6 23:15,20	32:14	30:3	68:22	31:9 33:11,21
24:3 25:15,19	Tuesday 34:18	want 8:12 9:8	White 5:5	34:13 35:18
26:12,15 27:5	34:20	24:15 30:7	Whittaker 33:8	37:10 44:22
32:15 33:2,6	turn 60:7 61:19	33:16 37:15	widow 24:23	45:14 46:17,17
35:11 36:1,8	two 10:2,18	40:4 52:10	William 1:15	50:2,12,19
42:17,18 49:3	12:15 15:10	65:13 70:9	54:5,23 55:3	59:2,10 60:14
49:6 51:16	18:13 21:12	71:7	6:22	62:3 64:2
54:11 56:6	24:15 31:4,10	wanted 9:1 20:1	windshield 48:1	67:10 68:4,14
70:12	31:13 33:4,16	20:2 31:18,19	withdrawn 7:16	69:21 71:4,6,6
timely 29:21	41:5 48:6 53:7	31:23 34:22	witness 2:13	year 12:15 63:11
times 27:5 31:17	63:17,23 65:2	43:8 45:7	6:11 7:20,23	67:14
33:5	68:19	46:19,22 47:3	8:7 66:19,20	years 7:10 11:22
today 8:9,11	type 15:12 17:3	wanting 32:2	72:11	12:5,6 14:22
9:11 13:4 39:9	20:20 23:9	45:9 48:20	wondering	16:1,17 18:1
39:15 61:3	38:8 53:1 56:2	wasn't 18:11	28:15	31:4 47:8 56:4
69:20	68:18	22:2 23:10	work 13:21 15:2	y'all 17:11 28:13
told 9:23 17:3,9	types 48:12	30:4 31:20	29:6,7	29:23 32:19
18:7 19:23		33:6 36:16	worked 22:22	34:1 35:7
23:7 24:13,19	U	40:8 41:16	48:23	36:12
26:1 30:16	Uh-huh 27:17	46:1 52:11	world 46:22	
33:4,23 34:4,5	51:14	54:12 57:10	48:16	\$
34:22 35:1	unable 35:13	61:10	worried 29:16	\$15 55:10 58:2
36:4,11 39:4	understand 8:11	way 24:11 37:11	worry 29:17,19	\$20 58:2
41:4,15,18	16:18 31:23	55:3	wouldn't 57:13	\$30 18:10 30:4
43:9 49:11	48:5 54:10	ways 61:9	65:9	\$33 33:13 35:14
52:23 54:5	understanding	Wednesday 26:4	wreck 47:14	35:16 36:7,17
toll-free 21:13	34:5 49:6	week 15:9 24:15	write 49:10	\$40 18:10
52:20		26:10,10 30:7	written 45:1	
		40:22 63:6		

FREEDOM COURT REPORTING

Page 82

0			
0013 60:9 64:21	20 11:22 12:5	5 4:11 46:9,13	
0014 61:21	2004 18:3,4	50:11	
65:15	33:14 44:6	5(d) 3:4	
	49:5 51:13	5.7 10:5	
	71:12	5/18/04 4:14	
1	2006 1:19 2:9	50 4:13	
1 4:7 9:4,9,9	3:10 6:10	58 4:15	
1/02/04 4:9	21 1:19 12:5		6
1/26/04 4:10	21st 2:9 3:9 6:10		6
1:06-CV-0034...	59:13,14	6 4:3,12 49:15	
1:5	218 5:15	49:19	
10 4:16 12:6	25 56:4	6th 15:17 62:23	
67:2,6	26th 51:13 60:6	66 4:16	
10th 10:3 52:18	69:4		7
10/02 59:12			7
10/17/06 4:19	3	7 4:13 50:21	
10:00 2:10 6:9	3 4:9 42:6,11	51:3	
11 4:17,17 11:5	43:22 50:10	70 4:19	
11:12,15	56:21	780 5:7	
11.3 10:7	3/02/04 4:12		8
11/06/07 72:19	30-something	8 4:14 37:3,7	
12 4:18,19 11:12	26:9	69:13	
12A 11:5,15	31 62:6,13	800-number	
12B 70:18,22	31-day 35:21	21:10	
12th 15:19	334-956-7700	800-898-2034	
14 7:10 64:5,6	5:9	5:17	
15 3:6 10:12	36104 5:8,16		9
11:22 12:6	37 4:14		9
16th 33:14 34:15		9 4:7,8,15,18	
62:19	4	58:7,11	
17th 43:9 44:6	4 4:10 44:15,19		
56:15,19 57:8	69:7		
18th 10:7 24:1	4th 16:10 63:4		
33:9 36:3,19	4/26/04 4:13		
37:8 52:8 53:6	401 5:6		
1988 3:6	405)270-1410		
	10:5,8		
2	42 4:9		
2 4:8 9:4,9,11	44 4:10		
54:21	450)270-1410		
2nd 50:14,18	21:13		
51:21 67:14	46 4:11		
2/03/04 4:11	49 4:12		
2:15 10:4			5

**367 VALLEY AVENUE
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